

## R E M A R K S

### I. Introduction

In response to the pending Office Action, Applicants have amended claim 1 to further clarify the intended subject matter of the invention. Support for the amendment to claim 1 can be found, for example, in Figs. 2C and 2D of the specification. No new matter has been added.

Applicants note with appreciation the indication of allowable subject matter being recited by claims 2 and 3.

For the reasons set forth below, Applicants respectfully submit that all pending claims are patentable over the cited prior art.

### II. The Rejection Of Claim 1 Under 35 U.S.C. § 102

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Jang et al. (U.S. Patent No. 5,702,977). Applicants respectfully submit that Jang et al. fails to anticipate the pending claim for at least the following reasons.

With regard to the present invention, amended claim 1 discloses a method of fabricating a semiconductor device, comprising: a first step for forming a semiconductor substrate into a first region constituting an active region of a first area defined by adjacent region dividing grooves and a second region constituting an active region of a second area different in size than the first area adjacent to the first region; a second step for forming an insulating film on the surface of the semiconductor substrate including the interior of the region dividing groove; a third step for etching the insulating film using an etching mask having a window pattern having at least two openings in such a manner that the openings corresponding to the window pattern are formed in

the first region; and a fourth step for polishing off the insulating film remaining on the semiconductor substrate.

In contrast to the claimed invention, Jang et al. fails to disclose a window pattern having at least two openings. The claimed invention has a first area defined by adjacent region dividing grooves and the window pattern is formed using an etching mask having a window pattern which has at least two openings (see, Fig. 2C of the present invention). However, as is clearly disclosed in Figs. 1-8 of Jang, the grooves 28 and 29 contain only one opening each. Furthermore, Jang teaches that Figs. 1-8 disclose “a series of schematic cross-sectional diagrams illustrating the results of progressive stages in forming, within an isolation trench within a semiconductor substrate employed in integrated circuit fabrication, a planarized trench fill dielectric layer.” As the language “trench” is used repeatedly, and not the plural “trenches”, it is apparent that the cited prior art reference intended to include only one opening and not a plurality of openings. Thus, Jang et al. fails to disclose a window pattern having at least two openings.

As anticipation under 35 U.S.C. § 102 requires that each element of the claim in issue be found, either expressly described or under principles of inherency, in a single prior art reference, *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983), and at a minimum, Jang et al. does not disclose forming an insulating film using an etching mask having a window pattern having at least two openings, it is clear that Jang et al. does not anticipate claim 1 of the present invention.

**III. Objection To Finality Of Rejection**

The Examiner has made the Office Action of November 15, 2005 final. Applicants would like to direct the Examiner's attention to the following passage from MPEP § 706.07(a) under the heading "FINAL REJECTION, WHEN PROPER ON SECOND ACTION" which sets forth the applicable standard:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

As the Examiner had, in the Office Action of June 6, 2005, rejected claim 1 under 35 U.S.C. § 103(a) and, after no subsequent amendment to said claim nor a submission of an information disclosure statement by Applicants in the Request for Reconsideration of September 6, 2005, issued a final rejection under 35 U.S.C. § 102(b) in the November 15, 2005 Office Action, Applicants assert that the Examiner has introduced a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on a submission of an information disclosure statement. Therefore, as is set forth by MPEP § 706.07(a) recited above, the Office Action of November 15, 2005 should not be final. Accordingly, Applicants respectfully request that the finality of the Office Action be withdrawn.

**IV. Conclusion**

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication of which is respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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